



The Comptroller General
of the United States

Washington, D.C. 20548

Has further
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Decision

Matter of: Creative Resources, Inc.--Request for
Reconsideration

File: B-225950.2

Date: March 26, 1987

DIGEST

Prior dismissal of protest, because an agency's decision to cancel an RFP and to perform the work in-house is a matter of executive branch policy that the General Accounting Office does not review, is affirmed where the protester fails to show the dismissal was based upon error of fact or law.

DECISION

Creative Resources, Inc., requests reconsideration of our decision, Creative Resources, Inc., B-225950, Feb. 11, 1987, 87-1 CPD ¶ _____, dismissing Creative's protest of the Navy's cancellation of request for proposals (RFP) No. N00612-86-R-0687 for counseling services. Creative contended that the cancellation, based on the agency's decision to perform the services itself, violated Office of Management and Budget Circular No. A-76. We dismissed the protest because we do not review an agency's decision regarding whether services should be performed by a contractor or in-house except where the agency issues a competitive solicitation for the stated purpose of comparing the costs of contracting with the costs of performing in-house; there was no cost comparison provision in the canceled RFP.

Creative requests reconsideration on the basis that the agency improperly failed to place in the RFP a provision for cost comparison. Creative maintains that A-76 procedures require the contracting agency to identify those procurements to which cost comparison will apply and to advise offerors in the solicitation that a cost comparison will be made.

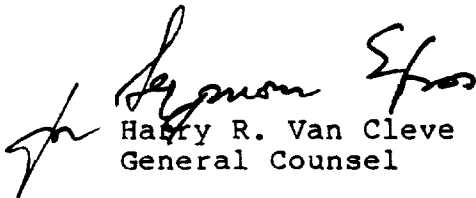
An agency decision to use or not use A-76 procedures is a matter of executive branch policy and is not reviewable under our protest function. Jets, Inc., 59 Comp. Gen. 263 (1980), 80-1 CPD ¶ 152. The only matters which we review in this area

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are those which relate to an agency's compliance with the terms of a solicitation issued for cost comparison purposes, including the terms applicable to the actual comparison.

Here, the agency issued a solicitation not for cost comparison purposes but to obtain offers leading to the award of a contract. It subsequently decided that it would not contract for the services, and canceled the procurement, which, as we noted in our decision, the agency was permitted to do. Creative's contention that the Circular required the RFP to contain a notice of cost comparison is beyond the scope of our review--agency compliance with the Circular, with the limited exception set forth above, is not subject to our review because it involves a policy matter, not a requirement of law or implementing regulation. It should be apparent, however, that since the agency did not intend to make an A-76 cost comparison when it issued the RFP and in fact did not do so, there was no requirement for a cost comparison notice.

The prior decision is affirmed.


Harry R. Van Cleve
General Counsel